



DEPARTMENT OF DEFENSE
OFFICE OF MILITARY COMMISSIONS
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

May 29, 2009

I considered carefully the request by the Prosecution to withdraw charges and specifications in the case of *United States v. Ahmed Khalfan Ghailani*. I find that withdrawal is in the best interests of justice. Pursuant to my authority under Rule for Military Commissions 604, I hereby withdraw and dismiss without prejudice all charges and specifications referred to trial by military commission in this case.

A handwritten signature in black ink, reading "Susan J. Crawford".

Susan J. Crawford
Convening Authority
for Military Commissions

CHARGE SHEET**I. PERSONAL DATA****1. NAME OF ACCUSED:**

Ahmed Khalfan Ghailani

2. ALIASES OF ACCUSED:

Fupi, Haytham, Abubakar Khalfan Ahmed, and Sharif Omar

3. ISN NUMBER OF ACCUSED (LAST FOUR):

10012

II. CHARGES AND SPECIFICATIONS**4. CHARGE: VIOLATION OF SECTION AND TITLE OF CRIME IN PART IV OF M.M.C.****SPECIFICATION:**

See Attached Charges and Specifications.

*SMC 29 May 2009***III. SWEARING OF CHARGES****5a. NAME OF ACCUSER (LAST, FIRST, MI)**

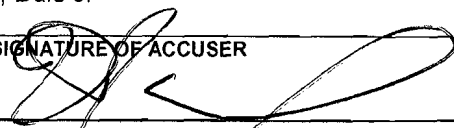
Cox, Dale J.

5b. GRADE

E-8

5c. ORGANIZATION OF ACCUSER

Office of Military Commissions

5d. SIGNATURE OF ACCUSER**5e. DATE (YYYYMMDD)**

20080618

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oath in cases of this character, personally appeared the above named accuser the 18th day of June, 2008, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

Robert J. Cotell
Typed Name of Officer

Office of Military Commissions
Organization of Officer

Colonel, U.S. Army
Grade

Judge Advocate
Official Capacity to Administer Oath
(See R.M.C. 307(b) must be commissioned officer)


Signature

IV. NOTICE TO THE ACCUSED

6. On 26 June 2008, 1300 the accused was notified of the charges against him/her (See R.M.C. 308).

John M. McAdams, Jr. GS-15

Typed Name and Grade of Person Who Caused
Accused to Be Notified of Charges

OMCP

Organization of the Person Who Caused
Accused to Be Notified of Charges

John M. McAdams, Jr.
Signature

V. RECEIPT OF CHARGES BY CONVENING AUTHORITY

7. The sworn charges were received at 1630 hours, on 11 August 2008, at Arlington, VA

Location

For the Convening Authority: Donna L. Wilkins

Typed Name of Officer

GS-15

Grade

[Signature]
Signature

VI. REFERRAL

8a. DESIGNATION OF CONVENING AUTHORITY

Convening Authority 10 USC §948h
Appointed on 6 February 2007

8b. PLACE

Arlington, VA

8c. DATE (YYYYMMDD)

20090108

Referred for trial to the (non)capital military commission convened by military commission convening order 09-01 dated 7 January 2009

subject to the following instructions¹: This case is referred non-capital

☒ **EX**

Command, Order, or Direction

☐ **OX**

Susan J. Crawford

Typed Name and Grade of Officer

[Signature]
Signature

Convening Authority 10 USC §948h

Official Capacity of Officer Signing

VII. SERVICE OF CHARGES

9. On _____, I (caused to be) served a copy these charges on the above named accused.

Typed Name of Trial Counsel

Grade of Trial Counsel

Signature of Trial Counsel

FOOTNOTES

¹See R.M.C. 601 concerning instructions. If none, so state.

CHARGE I: VIOLATION OF 10 U.S.C. § 950v(28), CONSPIRACY

S/C 30 Oct. 08

Specification: In that **Ahmed Khalfan Ghailani**, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, at various locations, from in or about 1996 to on or about August 7, 1998, conspire and agree with Usama bin Laden, Abdullah Ahmed Abdullah, Khalfan Khamis Mohammed, Sheikh Ahmed Salim Swedan, Fahid Mohammed Ally Msalam, Mustafa Mohamed Fadhil, and various other members and associates of the al Qaeda organization, known and unknown, ~~and willfully join an enterprise of persons with the intent to further the unlawful purpose of the enterprise, said agreement and enterprise sharing a common criminal purpose known to the accused~~ to commit the following offenses triable by military commission: murder of protected persons, attacking civilians, attacking civilian objects, intentionally causing serious bodily injury, murder in violation of the law of war, destruction of property in violation of the law of war, and terrorism, resulting in the deaths of at least 11 persons. (See Charge Sheet Appendix A for a complete list of persons killed in the bombing); *and that the accused knew the unlawful purpose of the agreement and joined willfully, that is, with the intent to further the unlawful purpose.*

copy

In furtherance of this agreement ~~and enterprise~~, and in order to accomplish some objective or purpose of the agreement ~~or enterprise~~, the accused, **Ahmed Khalfan Ghailani**, and his co-conspirators knowingly committed an overt act or acts, including, but not limited to the following:

1. In or about August 1996, *USMC* Usama bin Laden issued a public "Declaration of Holy War Against the Americans Who are Occupying the Land of the Two Holy Places," in which he denounced the U.S. military presence in Saudi Arabia and called for the murder of U.S. military personnel serving on the Arabian Peninsula. He called on Muslims to force the "American occupier" out of the Arabian Peninsula "with all available means," and exhorted his followers to "kill it, fight it, destroy it, break it down, plot against it, ambush it ... until it is gone."
2. In or about March, 1997, in an interview with CNN, Usama bin Laden promised to "drive Americans away from all Muslim countries," and warned the U.S. "to get out" if it did "not want to have its sons who are in the army killed." Usama bin Laden could "not guarantee" the "safety" of U.S. civilians since they were "not exonerated from responsibility" for U.S. foreign policy "because they chose the government and voted for it

despite their knowledge of its crimes." He promised that if his demands were unmet, he would send the U.S. "messages with no words because" the U.S. President "does not know any words."

3. In or about February 1998, Usama bin Laden and others, under the banner of the "International Islamic Front for Jihad against the Jews and the Crusaders," issued a fatwah (purported religious ruling) claiming that it was "God's order" and an "individual duty for every Muslim" to "kill Americans ... wherever and whenever" found. The fatwah directed all Muslims to "kill the Americans and their allies, civilians and military."
4. On or about May 28, 1998, in an interview with ABC News in Afghanistan, Usama bin Laden reiterated the February 1998 fatwah's call for killing Americans, emphasizing that, "We do not differentiate between those dressed in military uniforms and civilians. They are all targets in this fatwah." Usama bin Laden further stated that if his demands were not met, al Qaeda would "send" to the U. S. "the wooden boxes and the coffins" containing "the corpses of American troops and the American civilians." Bin Laden also noted that "American civilians were asked to gather information on Muslims and observant Muslim youth and to convey to the security section in the embassy."
5. On or about May 29, 1998, Usama bin Laden issued a statement entitled, "The Nuclear Bomb of Islam," under the banner of the "International Islamic Front for Fighting Jews and Crusaders," in which bin Laden stated that "it is the duty of the Muslims to prepare as much force as possible to terrorize the enemies of God."
6. In the latter part of 1997, Fahid Mohammed Ally Msalam and one other individual provided a telephone number and address to **Ahmed Khalfan Ghailani** so that **Ahmed Khalfan Ghailani** could make contact with a co-owner of a mining company in Arusha, Tanzania for the purpose of purchasing TNT.
7. In or about December 1997, **Ahmed Khalfan Ghailani** purchased a cellular telephone, cellular telephone service, and cellular telephone number 328848 at the request of, and with money provided by, Mustafa Mohamed Fadhil. This telephone was used to facilitate communications for the group responsible for the bombing of the United States Embassy in Dar es Salaam, Tanzania.

8. On several occasions between 1997 and August 1998, **Ahmed Khalfan Ghailani** traveled to Arusha, Tanzania, where he obtained TNT, detonators and detonation cord from a co-owner of a mining company, and transported them to Dar es Salaam, Tanzania.
9. In the latter part of 1997 and during 1998, **Ahmed Khalfan Ghailani** stored TNT, detonators and detonation cord at his residence located at 15 Amani, Dar es Salaam, Tanzania.
10. In or about January 1998, Khalfan Khamis Mohammed rented 22 Kidugalo, Dar es Salaam, Tanzania. In or about March or April of 1998, Mustafa Mohamed Fadhil moved into 22 Kidugalo with Khalfan Khamis Mohammed.
11. At various times in mid-1998, Mustafa Mohamed Fadhil, Khalfan Khamis Mohammed, **Ahmed Khalfan Ghailani**, Sheikh Ahmed Salim Swedan, and Fahid Mohammed Ally Msalam met at **Ahmed Khalfan Ghailani's** residence located at 15 Amani, Dar es Salaam, Tanzania.
12. In or about June 1998, Khalfan Khamis Mohammed and Fahid Mohammed Ally Msalam purchased a white Suzuki Samurai (the Suzuki Samurai) at a location in Dar es Salaam, Tanzania.
13. In or about June 1998, **Ahmed Khalfan Ghailani** and Fahid Mohammed Ally Msalam transported TNT in the Suzuki Samurai to 22 Kidugalo, Dar es Salaam, Tanzania.
14. In or about June 1998, Mustafa Mohamed Fadhil and Khalfan Khamis Mohammed rented house number 213 in the Ilala District of Dar es Salaam, Tanzania.
15. In or about June 1998, **Ahmed Khalfan Ghailani** and Fahid Mohammed Ally Msalam transported TNT in the Suzuki Samurai from 22 Kidugalo to 213 Ilala, Dar es Salaam, Tanzania.
16. On or about June 18, 1998, **Ahmed Khalfan Ghailani** applied for and subsequently obtained a Tanzanian passport for himself using the alias Abubakar Khalfan Ahmed.

17. In or about July 1998, **Ahmed Khalfan Ghailani** traveled to Mombasa, Kenya and met with Abdullah Ahmed Abdullah, known to **Ahmed Khalfan Ghailani** as both "Saleh" and "Abu Mohamed Al-Masri." Abdullah Ahmed Abdullah requested that **Ahmed Khalfan Ghailani** escort an "Egyptian brother" known to **Ahmed Khalfan Ghailani** as "Ahmad" (the suicide driver) from Mombasa, Kenya to Dar es Salaam, Tanzania.
18. In or about July 1998, **Ahmed Khalfan Ghailani** escorted the suicide driver from Mombasa, Kenya to Dar es Salaam, Tanzania. At the border crossing between Kenya and Tanzania, the suicide driver used a Tunisian passport. **Ahmed Khalfan Ghailani** was instructed not to take the suicide driver to his residence at 15 Amani. **Ahmed Khalfan Ghailani** ultimately checked the suicide driver into the Al Noor Hotel in Dar es Salaam, Tanzania. The suicide driver used his Tunisian passport in the name of Jamil bin Abdelkader Belaid to register at the Al Noor Hotel.
19. In or about July 1998, **Ahmed Khalfan Ghailani** accompanied Sheikh Ahmed Salim Swedan to the Al Noor Hotel in Dar es Salaam, Tanzania to negotiate the purchase price of a Nissan Atlas refrigeration truck (bomb truck) and to finalize the purchase of the bomb truck.
20. In or about July 1998, **Ahmed Khalfan Ghailani** and Fahid Mohammed Ally Msalam purchased oxygen and acetylene tanks, which were used as bomb components, in Dar es Salaam, Tanzania and transported them to the 213 Ilala house in the Suzuki Samurai.
21. In or about July 1998, **Ahmed Khalfan Ghailani** assisted in assessing the condition of the bomb truck. Thereafter, Sheikh Ahmed Salim Swedan arranged for mechanical repairs of the bomb truck at various locations in Dar es Salaam, Tanzania.
22. In or about July 1998, Sheikh Ahmed Salim Swedan requested alterations to the bomb truck in order to accommodate the bomb. These alterations included the addition of steel bars which were welded and bolted inside the cargo area in order to provide a frame to hold the cylinder tanks upright, and to provide a base for two large batteries which were used to initiate the electric detonators.

23. In or about July 1998, Sheikh Ahmed Salim Swedan purchased two large truck batteries from a location in Dar es Salaam Tanzania. These batteries were used to initiate the electric detonators.
24. In or about July or August 1998, the bomb truck's refrigeration unit was removed and **Ahmed Khalfan Ghailani** took the unit to an auto parts store located in Dar es Salaam.
25. In or about late July 1998 to early August 1998, Abdul Rahman al Muhajer (the bomb engineer), came to 213 Ilala to supervise the bomb assembly.
26. In or about late July 1998, in Dar es Salaam, Tanzania, Khalfan Khamis Mohammed, Mustafa Mohamed Fadhil, Abdul Rahman al Muhajer (the bomb engineer), and the suicide driver ground the TNT in a domestic flour mill at 213 Ilala.
27. In or about late July and early August 1998, Khalfan Khamis Mohammed, Fahid Mohammed Ally Msalam, Mustafa Mohamed Fadhil, Abdul Rahman al Muhajer (the bomb engineer), and the suicide driver met at 213 Ilala in Dar es Salaam, Tanzania, and loaded boxes of TNT, cylinder tanks, batteries, detonators, fertilizer, and sand bags into the back of the Dar es Salaam bomb truck.
28. In or about late July 1998 to early August 1998, the bomb engineer armed the bomb which included wiring and connecting the bomb components. The bomb engineer connected the wires to the two truck batteries located on a platform in the back of the truck, and the detonators to a button in the cab area of the bomb truck.
29. In or about late July 1998 to early August 1998, **Ahmed Khalfan Ghailani** escorted the bomb engineer from 213 Ilala Dar es Salaam, Tanzania to Kenya by bus.
30. In or about late July to early August 1998, during the taxi ride from 213 Ilala to the bus station to board a bus which would transport them to Kenya, the bomb engineer requested that **Ahmed Khalfan Ghailani** instruct the taxi driver to drive past the United States Embassy in Dar es Salaam, Tanzania. **Ahmed Khalfan Ghailani** instructed the taxi driver to drive them to some shops located just past the United States Embassy in Dar es Salaam, Tanzania. **Ahmed Khalfan Ghailani** did not mention the

United States Embassy to the taxi driver because **Ahmed Khalfan Ghailani** did not want the taxi driver to link the two of them to the United States Embassy in Dar es Salaam.

31. On or about August 1, 1998, **Ahmed Khalfan Ghailani** checked into the Hilltop Hotel in Nairobi, Kenya under the alias Abubakar Khalfan Ahmed. In or about the first week of August 1998, **Ahmed Khalfan Ghailani**, the bomb engineer, Fahid Mohammed Ally Msalam, and Abdullah Ahmed Abdullah met with other co-conspirators at the Hilltop Hotel in Nairobi, Kenya.
32. Sometime between June 1998 and August 1998, Fahid Mohammed Ally Msalam gave **Ahmed Khalfan Ghailani** an airline ticket to Pakistan in **Ahmed Khalfan Ghailani's** alias of Abubakar Khalfan Ahmed.
33. In or about the first week of August 1998 while at the Hilltop Hotel, **Ahmed Khalfan Ghailani** received an envelope from Abdullah Ahmed Abdullah, who **Ahmed Khalfan Ghailani** knew as both Abu Mohamed Al Masri and Saleh, with instructions to deliver the envelope to Khalfan Khamis Mohammed in Dar es Salaam, Tanzania. **Ahmed Khalfan Ghailani** returned to Dar es Salaam, Tanzania by bus, and hand-delivered the envelope to Khalfan Khamis Mohammed at 213 Ilala. The envelope contained telephone numbers to dial if Khalfan Khamis Mohammed required assistance.
34. When **Ahmed Khalfan Ghailani** delivered the envelope to Khalfan Khamis Mohammed, Khalfan Khamis Mohammed told **Ahmed Khalfan Ghailani** that the suicide driver was a very brave man who would be killed in the bomb truck.
35. On or about August 2, 1998, Sheikh Ahmed Salim Swedan and Mustafa Mohamed Fadhil left Nairobi, Kenya, on Pakistan International Airlines Flight Number 744 to Karachi, Pakistan.
36. On or about August 4, 1998, the suicide driver noticed that the rear wheels of the bomb truck had sunk in the sand inside the 213 Ilala house compound. The suicide driver and Khalfan Khamis Mohammed worked to free the bomb truck from the sand. To ensure the bombing mission would not fail, Khalfan Khamis Mohammed made arrangements for a tow truck to be available to pull the bomb truck free from the sand in the event it

became stuck on the day of the bombing of the United States Embassy Dar es Salaam, Tanzania.

37. On or about August 5 and 6, 1998, a co-conspirator made calls to the Hilltop Hotel in Nairobi, Kenya, from a location in Dar es Salaam, Tanzania, utilizing the cell telephone purchased by **Ahmed Khalfan Ghailani**.
38. In or about early August 1998, **Ahmed Khalfan Ghailani** told his roommate that he was leaving Dar es Salaam for Mombasa, and that he had reserved a flight for August 6, 1998, to travel from Nairobi, Kenya to Yemen.
39. On or about August 6, 1998, Abdullah Ahmed Abdullah, who was also known to **Ahmed Khalfan Ghailani** both as Abu Mohamed al Masri and Saleh, the bomb engineer and **Ahmed Khalfan Ghailani**, under the alias Abubakar Khalfan Ahmed, left Nairobi, Kenya for Karachi, Pakistan, on Kenya Airways Flight Number 310.
40. On or about August 6, 1998, Fahid Mohammed Ally Msalam left Nairobi, Kenya, for Karachi, Pakistan, on Pakistan International Airways flight Number 746.
41. On or about August 7, 1998, Khalfan Khamis Mohammed instructed his nephew to take the domestic flour mill which was used to grind TNT, and other items from the 213-Ikara house, and give the items to Khalfan Khamis Mohammed's sister. Khalfan Khamis Mohammed further instructed his nephew to tell his sister to clean the domestic flour mill because it had been used for "unclean things."
42. On or about August 7, 1998, at approximately 10:40 a.m., the suicide driver detonated an explosive device, along with oxygen and acetylene tanks and truck batteries, contained in a Nissan Atlas Refrigeration truck, in the vicinity of the United States Embassy building located in Dar es Salaam, Tanzania, severely damaging the United States Embassy building, and causing the deaths of at least eleven (11) persons, and serious bodily injuries and injuries to a number of persons.
43. On or about August 8, 1998, al Qaeda claims of responsibility for the embassy bombings in the name of the "Islamic Army for the Liberation of

the Holy Places" were published by world wide media. One of the claims of responsibility stated that the Dar es Salaam bombing was carried out by an Egyptian national.

CHARGE II: VIOLATION OF 10 U.S.C. § 950v(1), MURDER OF PROTECTED PERSONS

Specification: In that Ahmed Khalfan Ghailani, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, on or about August 7, 1998, while in the context of and associated with armed conflict, unlawfully and intentionally kill eleven (11) persons, each of whom enjoyed the status of a "protected person" within the meaning of the Military Commissions Act of 2006, § 950v(a)(2)(A), knowing or having reason to know the factual circumstances that established their status as protected persons, by bombing the United States Embassy in Dar es Salaam, Tanzania. (See Charge Sheet Appendix A for a complete list of protected persons killed in the bombing.)

CHARGE III: VIOLATION OF 10 U.S.C. § 950v(15), MURDER IN VIOLATION OF THE LAW OF WAR

Specification: In that Ahmed Khalfan Ghailani, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, on or about August 7, 1998, while in the context of and associated with armed conflict, unlawfully and intentionally kill eleven (11) persons in violation of the law of war, by bombing the United States Embassy in Dar es Salaam, Tanzania. (See Charge Sheet Appendix A for a complete list of persons killed in the bombing.)

CHARGE IV: VIOLATION OF 10 U.S.C. § 950t, ATTEMPTED MURDER

Specification 1: In that Ahmed Khalfan Ghailani, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, on or about August 7, 1998, while in the context of and associated with armed conflict, attempt to unlawfully and intentionally kill persons, each of whom enjoyed the status of a "protected person" within the meaning of the Military Commissions Act of 2006, § 950v(a)(2)(A), knowing or having reason to know the factual circumstances that established their status as protected persons, by bombing the United States Embassy in Dar es Salaam, Tanzania, in violation of 10 U.S.C. § 950v(1).

S/C
3 Oct. 08

Specification 2: In that ~~Ahmed Khalfan Ghailani~~, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, on or about August 7, 1998, while in the context of and associated with armed conflict, attempt to unlawfully and intentionally kill persons in violation of the law of war, by bombing the United States Embassy in Dar es Salaam, Tanzania, in violation of 10 U.S.C. § 950v(15).

S/C
3 Oct. 08

CHARGE ^{IV} V: VIOLATION OF 10 U.S.C. § 950v(2), ATTACKING CIVILIANS

Specification: In that ~~Ahmed Khalfan Ghailani~~, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, on or about August 7, 1998, while in the context of and associated with armed conflict, engage in an attack, intending the object of the attack to be a civilian population as such, and individual civilians not taking active part in hostilities, located in and around the United States Embassy, Dar es Salaam, Tanzania, by bombing the United States Embassy, Dar es Salaam, Tanzania, knowing or having reason to know the factual circumstances that established their civilian status, resulting in the deaths of eleven (11) civilians. (See Charge Sheet Appendix A for a complete list of civilians killed in the bombing.)

S/C
3 Oct. 08

CHARGE ^{IV} VI: VIOLATION OF 10 U.S.C. § 950v(3), ATTACKING CIVILIAN OBJECTS

Specification: In that ~~Ahmed Khalfan Ghailani~~, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, on or about August 7, 1998, while in the context of and associated with armed conflict, intentionally engage in an attack upon a civilian object, that is, property that was not a military objective, to wit, the United States Embassy, Dar es Salaam, Tanzania, by bombing the United States Embassy in Dar es Salaam, Tanzania, intending such civilian property to be the object of the attack, knowing or having reason to know that such property was not a military objective.

SLC
3 Oct. '08

VI

CHARGE VII: VIOLATION OF 10 U.S.C. § 950v(13), INTENTIONALLY CAUSING SERIOUS BODILY INJURY

Specification: In that Ahmed Khalfan Ghailani, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, on or about August 7, 1998, while in the context of and associated with armed conflict, intentionally cause and inflict serious injury to the body or health of one or more persons, with unlawful force and violence, in violation of the law of war, by bombing the United States Embassy in Dar es Salaam, Tanzania. (See Charge Sheet Appendix B for a list of names of some persons who suffered serious bodily injury.)

SLC
3 Oct. '08

VII

CHARGE VIII: VIOLATION OF 10 U.S.C. § 950v(16), DESTRUCTION OF PROPERTY IN VIOLATION OF THE LAW OF WAR

Specification: In that Ahmed Khalfan Ghailani, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, on or about August 7, 1998, while in the context of and associated with armed conflict, intentionally destroy property belonging to the United States Government without the consent of the United States Government, by bombing the United States Embassy in Dar es Salaam, Tanzania, in violation of the law of war.

SLC
3 Oct. '08

VIII

CHARGE IX: VIOLATION OF 10 U.S.C. § 950v(24), TERRORISM

Specification: In that Ahmed Khalfan Ghailani, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, on or about August 7, 1998, while in the context of and associated with armed conflict, intentionally kill and inflict great bodily harm on one or more protected persons, and engage in an act that evinced a wanton disregard for human life, in a manner calculated to influence and affect the conduct of the United States Government and civilian population by intimidation or coercion and to retaliate against United States Government conduct, by bombing the United States Embassy in Dar es Salaam, Tanzania, resulting in the deaths of at least 11 persons. (See Charge Sheet Appendix A for a complete list of protected persons killed in the bombing. See Charge Sheet Appendix B for a list of names of some protected persons who suffered great bodily harm.)

SJC 108
3 Oct 108
IX
CHARGE X: VIOLATION OF 10 U.S.C. § 950v(25), PROVIDING
MATERIAL SUPPORT FOR TERRORISM

Specification 1: In that **Ahmed Khalfan Ghailani**, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, at various locations, from in or about 1997 to on or about August 7, 1998, while in the context of and associated with armed conflict, knowingly and intentionally provide material support and resources to be used in preparation for, and in carrying out an act of terrorism, to wit, the bombing of the American Embassy in Dar es Salaam, Tanzania, which occurred on August 7, 1998.

The accused, **Ahmed Khalfan Ghailani**, provided material support and resources to be used in preparation for, and in carrying out the bombing of the American Embassy in Dar es Salaam, Tanzania, which occurred on August 7, 1998, which includes but is not limited to the following:

The Government hereby incorporates overt acts numbered 6, 7, 8, 9, 11, 13, 15, 16, 17, 18, 19, 20, 21, 24, 29, 30, 31, 32, 33, 38, and 39, listed in Charge I, as the material support and resources provided by **Ahmed Khalfan Ghailani** for the August 7, 1998 bombing of the United States Embassy in Dar es Salaam, Tanzania.

Specification 2: In that **Ahmed Khalfan Ghailani**, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, at various locations, from on or about August 8, 1998, until on or about July 25, 2004, while in the context of and associated with armed conflict, intentionally and knowingly provide material support and resources to al Qaeda, an international terrorist organization founded by Usama bin Laden, and known by the accused to be an organization that engages in terrorism, said al Qaeda having engaged in hostilities against the United States, including, but not limited to, an attack against the United States Embassy in Dar es Salaam, Tanzania in August 1998.

The accused provided material support and resources to al Qaeda including, but not limited to, the following:

1. During approximately a three month period between August and December 1998, **Ahmed Khalfan Ghailani** attended basic training at the al Farouq

training camp, an al Qaeda sponsored and operated camp located in Afghanistan. **Ahmed Khalfan Ghailani's** training consisted of instruction in the use of rifles, pistols, hand grenades, anti-aircraft weapons, rocket propelled grenades, and explosives, as well as training in tactics, mountaineering, map reading, compass use and physical fitness.

2. Between the end of 1998 and approximately March or April 1999, for approximately four or five months, and following completion of his al Qaeda basic training, **Ahmed Khalfan Ghailani** traveled from Khowst to Kabul, Afghanistan, where he joined a front-line al Qaeda unit fighting with the Taliban against the Northern Alliance.
3. From the front line, **Ahmed Khalfan Ghailani** returned to the al Farouq camp in 1999. The al Farouq camp had moved to the Charasyab area near Kabul. After returning to the camp, for approximately one week in 1999, **Ahmed Khalfan Ghailani** attended advanced explosives training.
4. For approximately one year from 1999 to 2000, at the al Farouq camp, **Ahmed Khalfan Ghailani** served as a physical fitness trainer during which time he trained more than one hundred persons.
5. While a physical fitness trainer at al Farouq camp from approximately 1999 to 2000, **Ahmed Khalfan Ghailani** took advanced tactical training utilizing pistols and AK 47's as well as specialized training in the use of circuit boards.
6. During a period of time between 2000 and 2001, **Ahmed Khalfan Ghailani** served as a personal bodyguard and cook to Usama bin Laden. **Ahmed Khalfan Ghailani** carried an AK 47 during his time as a bodyguard for Usama bin Laden.
7. During a period of time between 2001 until on or about July 25, 2004, **Ahmed Khalfan Ghailani** served as an al Qaeda document forger, preparing passports, identification documents and travel documents for "brothers," including "brothers" who required such documentation in order to carry out "operations" on behalf of al Qaeda, knowing that such "operations" involved acts of terrorism which would result in deaths.

CHARGE SHEET APPENDIX A

The following eleven (11) persons, all of whom were “protected persons” and “civilians” as those terms are defined in the M.C.A., were killed as a result of the bombing of the United States Embassy, Dar es Salaam, Tanzania, on or about August 7, 1998:

1. ABDURAHMAN ABDULLA
2. ELIAS ELISHA
3. HASSAN SIYAD HALANE
4. RAMADHANI MAHUNDI
5. ABDALLAH MOHAMED
6. ABAS WILLIAM MWILA
7. SHAMTE YUSUPH NDANGE
8. OMARI YUSUFU NYUMBU
9. MTENDEJE RAJABU
10. SAID ROGATHI
11. DOTTO SELEMANI

SMC 29 May 2009

CHARGE SHEET APPENDIX B

The following persons, and others not named below, all of whom were "protected persons" and "civilians" as those terms are defined in the M.C.A., suffered serious bodily injury and great bodily harm as a result of the bombing of the United States Embassy, Dar es Salaam, Tanzania, on or about August 7, 1998:

1. BOGOLE AMIN-fractured mandible.
2. EDDIESON KAPESA-injuries to face, head and leg.
3. VALENTEYNE MATHEW KATUNDA-head injury, hearing loss, leg numbness.
4. HENRY KESSEY-eye injury.
5. RAJABA KIBWANA-fractured femur.
6. CYNTHIA KIMBLE-eye injury.
7. ALLY KINDAMBA-head injury.
8. EVITA KWIMBERE-injuries requiring twelve day hospitalization.
9. ALEX MAMKWE-head injury.
10. PERPETUA MAMUWE-arm, leg, neck injuries.
11. LIMI MBITA-injuries requiring hospitalization for at least seven days.
12. MOHAMED MGANGA-injury resulting in loss of consciousness on multiple occasions.
13. EDNA MOHAMED-fractured humerus.
14. LEA MRISHO-fractured humerus.
15. DONTI MWAIPAPE-head injury, loss of hearing.
16. CHRISTOPHER PIGANGOMA-arm injury.
17. ELIZABETH SLATER-nose injury.
18. ALLY SWALEHE-deep cut wound.
19. DELANGEN SYLVIA-compound fracture.
20. CLIFFORD TARIMO-ear injury.
21. SOFIA AHMED YUSUF-eye, face, chest injuries.

CHARGE SHEET**I. PERSONAL DATA****1. NAME OF ACCUSED:**

Ahmed Khalfan Ghailani

2. ALIASES OF ACCUSED:

Fupi, Haytham, Abubakar Khalfan Ahmed, and Sharif Omar

3. ISN NUMBER OF ACCUSED (LAST FOUR):

10012

II. CHARGES AND SPECIFICATIONS**4. CHARGE: VIOLATION OF SECTION AND TITLE OF CRIME IN PART IV OF M.M.C.****SPECIFICATION:**

See Attached Additional Charge and Specifications

*SAC 29 May 2009***III. SWEARING OF CHARGES****5a. NAME OF ACCUSER (LAST, FIRST, MI)**

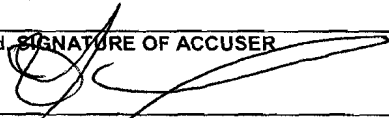
Cox, Dale J.

5b. GRADE

E-8

5c. ORGANIZATION OF ACCUSER

Office of Military Commissions

5d. SIGNATURE OF ACCUSER**5e. DATE (YYYYMMDD)**

20081009

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oath in cases of this character, personally appeared the above named accuser the 9th day of October, 2008, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

Robert J. Cotell

Typed Name of Officer

Office of Military Commissions

Organization of Officer

Colonel, U.S. Army

Grade

Judge AdvocateOfficial Capacity to Administer Oath
(See R.M.C. 307(b) must be commissioned officer)

Signature

IV. NOTICE TO THE ACCUSED

6. On 10 October 2008 the accused was notified of the charges against him/her (See R.M.C. 308).

John McAdams GS-15

Typed Name and Grade of Person Who Caused
Accused to Be Notified of Charges

OMC - P

Organization of the Person Who Caused
Accused to Be Notified of Charges

John McAdams
Signature

V. RECEIPT OF CHARGES BY CONVENING AUTHORITY

7. The sworn charges were received at 1900 hours, on 10 October 2008, at Arlington, VA

Location

For the Convening Authority:

DONNA L. WILKINS

Typed Name of Officer

GS-15

Grade

[Signature]

Signature

VI. REFERRAL

8a. DESIGNATION OF CONVENING AUTHORITY

Convening Authority 10 USC §948h
Appointed on 6 February 2007

8b. PLACE

Arlington, VA

8c. DATE (YYYYMMDD)

20090108

Referred for trial to the (non)capital military commission convened by military commission convening order 09-01 dated 7 January 2009

subject to the following instructions¹: These charges will be tried in conjunction with the charges referred against the accused on 8 January 2009.

☒ X

Command, Order, or Direction

☐ X

Susan J. Crawford

Typed Name and Grade of Officer

[Signature]
Signature

Convening Authority 10 USC §948h

Official Capacity of Officer Signing

VII. SERVICE OF CHARGES

9. On _____, I (caused to be) served a copy these charges on the above named accused.

Typed Name of Trial Counsel

Grade of Trial Counsel

Signature of Trial Counsel

FOOTNOTES

¹See R.M.C. 601 concerning instructions. If none, so state.

ADDITIONAL CHARGE: VIOLATION OF 10 U.S.C. § 950t, ATTEMPT

Specification 1: In that **Ahmed Khalfan Ghailani**, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, on or about August 7, 1998, while in the context of and associated with armed conflict, attempt to unlawfully and intentionally kill persons who were located near, at or within the United States Embassy building and compound, located in Dar es Salaam, Tanzania, including but not limited to those persons identified in Appendix B, each of whom enjoyed the status of a "protected person" within the meaning of the Military Commissions Act of 2006, § 950v(a)(2)(A), knowing or having reason to know the factual circumstances that established their status as protected persons, by bombing the United States Embassy in Dar es Salaam, Tanzania, in violation of 10 U.S.C. § 950v(b)(1).

Specification 2: In that **Ahmed Khalfan Ghailani**, a.k.a., "Fupi," "Haytham," "Abubakar Khalfan Ahmed," and "Sharif Omar," a person subject to trial by military commission as an alien unlawful enemy combatant, did, on or about August 7, 1998, while in the context of and associated with armed conflict, attempt to unlawfully and intentionally kill persons who were located near, at or within the United States Embassy building and compound, located in Dar es Salaam, Tanzania, including but not limited to those persons identified in Appendix B, in violation of the law of war, by bombing the United States Embassy in Dar es Salaam, Tanzania, in violation of 10 U.S.C. § 950v(b)(15).